

Notice of Allowability

Application No.

10/643,823

Examiner

Kesha Frisby

Applicant(s)

MOTOSKO, STEPHEN J.

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/7/2006.
2. ☒ The allowed claim(s) is/are 1,2,5,7,8,11,13,14 and 17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Charles J. Prescott Reg. No. 30,316 on Monday, June 19, 2006.

The application has been amended as follows:

Claims 3, 4, 6, 9, 10, 12, 15, 16 & 18 have been cancelled.

Claims 1, 5, 7, 11, 13, 14 & 17 have been amended as indicated below:

Claim 1: An audio-visual educational device: comprising

A housing including a first plurality of separate viewable indicia each representative of an object which produces an audible sound associated with the corresponding said object; a plurality of sound emitting areas of said housing each positioned in close proximity to one said viewable indicia wherein each said viewable indicia has a separate said sound emitting area positioned in close proximity thereto; an electronic controller operably mounted in producing and emitting each of said housing for selectively audible sounds one at a time from the corresponding said sound emitting area responsive to manual selection of one said viewable indicia at a time wherein the user receives an audible queue in the form of said audible sound emanating from the selected said sound emitting area to look in the direction of said audible sound thereby causing an association to be made between the selected said viewable indicia depicting the object

Art Unit: 3715

and the corresponding said audible sound; wherein said electronic controller further comprising: an arm pivotally connected to a central transverse axis of said housing and a sound producing device positioned at a distal end of said arm and being operably connected to said electronic controller, said arm being thereby selectively manually rotatable to position said sound producing device in substantial alignment with one of said sound emitting areas corresponding to the selected said viewable indicia.

Claim 5: An audio-visual educational device as set forth in Claim 2, wherein: said housing has a generally upright disc shape with said viewable indicia and said sound emitting areas arranged in generally radially spaced orientation one to another adjacent a perimeter of said housing.

Claim 7: An audio-visual educational device used to teach children to associate a viewable indicia of a sound-producing object with its characteristic audible sound comprising: a housing including a plurality of separate viewable indicia each representative of said object which produces the audible sound associated with the corresponding said object; a said plurality of sound emitting areas and a sound producing devices each positioned in close proximity to one said viewable indicia wherein each said viewable indicia has a separate sound emitting area and a sound producing device in close proximity thereto; an electronic controller operably mounted in said housing for selectively producing and emitting each said audible sound from the corresponding said sound producing device and said sound emitting area responsive to manual selection of one said viewable indicia at a time wherein the user receives an audible queue to look in the direction of sound emanating from the selected sound

Art Unit: 3715

emitting area thereby learning to associate the selected said viewable object with its corresponding said audible sound; wherein said electronic controller further comprising: an arm pivotally connected to a central transverse axis of said housing and a sound producing device positioned at a distal end of said arm and being operably connected to said electronic controller, said arm being thereby selectively manually rotatable to position said sound producing device in substantial alignment with one of said sound emitting areas corresponding to the selected said viewable indicia.

Claim 11: An audio-visual educational device as set forth in Claim 8, wherein: said housing has a generally upright disc shape with said viewable indicia and said sound emitting areas arranged in generally radially spaced orientation one to another adjacent a perimeter of said housing.

Claim 13: An audio-visual educational device for teaching a person to associate a viewable image of an object which produces a known audible sound with the known audible sound comprising: a housing including a plurality of separate viewable indicia and a plurality of sound emitting areas each of said viewable indicia representative of said object which produces the audible sound associated with the corresponding said object, the sound being emitted from the corresponding said sound emitting area; each said sound emitting areas of said housing in close proximity to the corresponding one of said objects; an electronic controller operably mounted in said housing for selectively producing and emitting or causing to be emitted each of said audible sounds one at a time from the corresponding said sound emitting area responsive to manual selection of one said viewable indicia at a time wherein the user receives an audible queue in the

Art Unit: 3715

form of said audible sound to look in the direction of sound emanating from the selected said sound emitting area thereby associating the selected said viewable object with the corresponding said audible sound; wherein said electronic controller further comprising: an arm pivotally connected to a central transverse axis of said housing and a sound producing device positioned at a distal end of said arm and being operably connected to said electronic controller, said arm being thereby selectively manually rotatable to position said sound producing device in substantial alignment with one of said sound emitting areas corresponding to the selected said viewable indicia.

Claim 14: An audio-visual educational device as set forth in Claim 13, wherein: each said viewable indicia includes a pictorial and a word description of the corresponding said object.

Claim 17: An audio-visual educational device as set forth in Claim 14, wherein: said housing has a generally upright disc shape with said viewable indicia and said sound emitting areas arranged in generally radially spaced orientation one to another adjacent a perimeter of said housing.

Reasons for Allowance

2. Claims 1, 2, 5, 7, 8, 11, 13, 14 & 17 are allowed.
3. The following is an examiner's statement of reasons for allowance: None of the cited patents used separately or together teach an audio-visual educational device with an electronic controller that includes an arm pivotally connected to a central traverse axis of said housing and a sound producing device positioned at a distal end of said arm and being operably connected to said electronic controller, said arm being thereby

Art Unit: 3715

selectively manually rotatable to position said sound producing device in substantial alignment with one of said sound emitting areas corresponding to the selected said viewable indicia.

4. It is noted that the previous cited reference, Dolan (U.S. Patent Number 6,017,260) appear to be most related to the present invention in that Dolan discloses a audio-visual educational device that has a housing with indicia, sound emitting areas and an electronic controller. However, the plurality of sound emitting areas is nothing more than duplication of parts. There is case law that pertains to duplication of parts: *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. As a result of this case law, duplication of parts is presumed obvious to one having ordinary skill in the art at the time of the invention. Dolan, however, fails to disclose an electronic controller that includes an arm pivotally connected to a central traverse axis of said housing and a sound producing device positioned at a distal end of said arm and being operably connected to said electronic controller, said arm being thereby selectively manually rotatable to position said sound producing device in substantial alignment with one of said sound emitting areas corresponding to the selected said viewable indicia.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kesha Frisby whose telephone number is 571-272-


Art Unit: 3715

8774. The examiner can normally be reached on Mon. - Wed. 7-3pm, Thu. 6:30-4pm & Fri. 7-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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 6/22/06
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